

**UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT**

DAVID R. WAGNER,  
Plaintiff,

v.

NATIONAL CITY BANK OF  
INDIANA, et al.,  
Defendants.

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CIVIL ACTION NO.  
3:08-cv-01828(JCH)

NOVEMBER 30, 2009

**RULING RE: MOTION TO STRIKE (Doc. No. 56)**

The defendant, National City Bank of Indiana (“National City Bank”) filed a Motion for Summary Judgment on September 24, 2009. See Mot. for Summ. J. (Doc. No. 48). To date, the plaintiff, David Wagner, has not opposed it. Instead, Wagner filed a Motion to Strike. See Mot. to Strike (Doc. No. 56). For the reasons that follow, the Motion to Strike is denied.

First, Wagner argues that National City Bank failed to “seek or obtain a pre-filing conference.” See Mot. to Strike at ¶ 1. The undersigned does not require a pre-filing conference for summary judgment motions.

Second, the fact that the plaintiff’s deposition was not concluded, at defendant’s request, is irrelevant. National City Bank could file a Motion for Summary Judgment at any time after its Answer was filed.

Third, Wagner is correct that, under the Rule 26(f) Scheduling Order (Doc. No. 20), dispositive motions must be filed by March 1, 2010. However, nothing prohibits a party from filing such a motion earlier. If Wagner is not in a position yet to present a factual record in opposition to the Motion for Summary Judgment, he must comply with Federal Rule of Civil Procedure 56(f).

Therefore, the Motion to Strike (Doc. No. 56) is **DENIED**. Plaintiff is ordered to file his Opposition to the Motion for Summary Judgment, which can be or include a Rule 56(f) Affidavit, no later than December 21, 2009.

**SO ORDERED.**

Dated at Bridgeport, Connecticut this 30th day of November, 2009.

/s/ Janet C. Hall  
Janet C. Hall  
United States District Judge